

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7897

BILL NUMBER: SB 564

NOTE PREPARED: Apr 6, 2005

BILL AMENDED: Mar 22, 2005

SUBJECT: Mortgage Foreclosure Sales.

FIRST AUTHOR: Sen. Clark

FIRST SPONSOR: Rep. Foley

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: (Amended) **(A)** The bill allows a petitioner in a mortgage foreclosure sale to request an auctioneer who must be approved by the court. The bill requires the auctioneer to schedule the auction.

(B) The bill allows a sheriff to charge a person enforcing a mortgage foreclosure judgment a fee of not more than \$200 for sheriff's sale costs.

(C) The bill prohibits a title insurance agent or a title insurance underwriter from making a disbursement from an escrow account unless certain conditions are met. The bill requires the deposit of funds received for an escrow transaction to be made into an escrow account unless the parties agree in writing to another arrangement.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) **(B) Summary:** Under the bill, county sheriffs would have the option to impose an administrative fee of up to \$200 to cover the cost of a sheriff's sale of property. The number of mortgage foreclosures in which a final judgment was issued during CY 2003 are included in the

Indiana Judicial Report. In CY 2003, 28,362 mortgage foreclosures were reportedly disposed in Indiana's trial courts. In CY 2002 the number of foreclosures disposed was 15,740. Assuming the reported foreclosures all resulted in a sale of property, the maximum amount of revenue collected from the proposed fee could range from \$3.2 M to \$5.6 M based on the number of disposed foreclosures in CY 2002 and CY 2003. Revenue generated by the proposed fee would be used for actual costs associated with the sale of mortgaged premises that have been foreclosed.

Background: Under current law, sheriffs are required to charge a fee of \$10 to a sole owner of property for the service of a written notice of a sheriff's sale. The \$10 fee is currently deposited into the county general fund.

State Agencies Affected:

Local Agencies Affected: Sheriff Departments.

Information Sources: Division of State Court Administration, *2003 Indiana Judicial Report*, www.in.gov/judiciary/admin.

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